

Title 17B.
Subtitle 3.
Chapter 37. (New)
Interstate
Insurance Product
Regulation
Compact.
§§1-17 -
C.17B:37-1 to
17B:37-17
§18 - Note

P.L.2010, CHAPTER 120, *approved January 5, 2011*
Assembly, No. 483 (*First Reprint*)

- 1 **AN ACT** establishing the "Interstate Insurance Product Regulation
2 Compact," and supplementing subtitle 3 of Title 17B of the New
3 Jersey Statutes.
4
- 5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7
- 8 1. a. This act shall be known and may be cited as the
9 "Interstate Insurance Product Regulation Compact."
10 b. The Legislature finds and declares that the purposes of this
11 act, through means of joint and cooperative action among the
12 compacting states, are to:
- 13 (1) promote and protect the interests of consumers of individual
14 and group annuity, life insurance, disability income, and long-term
15 care insurance products;
16 (2) develop uniform standards for insurance products covered
17 under this act;
18 (3) establish a central clearinghouse to receive and provide
19 prompt review of insurance products covered under the compact
20 and, in certain cases, advertisements related thereto, submitted by
21 insurers authorized to do business in one or more compacting states;
22 (4) give appropriate regulatory approval to those product filings
23 and advertisements satisfying the applicable uniform standard;
24 (5) improve coordination of regulatory resources and expertise
25 between state insurance departments regarding the setting of
26 uniform standards and the review of insurance products covered
27 under the compact;
28 (6) create the Interstate Insurance Product Regulation
29 Commission; and
30 (7) perform these and any other related functions as may be

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted October 7, 2010.

1 consistent with the State's regulation of the business of insurance.
2
3 2. For the purposes of this act:
4 "Advertisement" means any material designed to create public
5 interest in an insurance product, or induce the public to purchase,
6 increase, modify, reinstate, borrow on, surrender, replace or retain a
7 policy, as more specifically defined in the rules and operating
8 procedures of the Interstate Insurance Product Regulation
9 Commission established by section 3 of this act.
10 "Bylaws" mean those bylaws established by the Interstate
11 Insurance Product Regulation Commission for its governance, or
12 for directing or controlling the commission's actions or conduct.
13 "Commission" means the Interstate Insurance Product Regulation
14 Commission established by section 3 of this act.
15 "Commissioner" means the chief insurance regulatory official of
16 a state including, but not limited to the commissioner,
17 superintendent, director or administrator.
18 "Compact" means the "Interstate Insurance Product Regulation
19 Compact" established by this act.
20 "Compacting state" means any state which has enacted this or
21 similar compact legislation and which has not withdrawn or been
22 terminated pursuant to section 14 of this act.
23 "Domiciliary state" means the state in which an insurer is
24 incorporated or organized; or, in the case of an alien insurer, its
25 state of entry.
26 "Insurer" means any entity licensed by a state to issue contracts
27 of insurance for any of the lines of insurance covered by this act.
28 "Member" means the person chosen by a compacting state as its
29 representative to the commission, or his designee.
30 "Non-compacting state" means any state which is not a
31 compacting state.
32 "Operating procedures" means procedures promulgated by the
33 commission implementing a rule, uniform standard, or a provision
34 of this act.
35 "Product" means the form of a policy or contract, including any
36 application, endorsement, or related form which is attached to and
37 made a part of the policy or contract, and any evidence of coverage
38 or certificate, for an individual or group annuity, life insurance,
39 disability income, or long-term care insurance product that an
40 insurer is authorized to issue.
41 "Rule" means a statement of general or particular applicability
42 and future effect promulgated by the commission, including a
43 uniform standard developed pursuant to section 7 of this act,
44 designed to implement, interpret, or prescribe law or policy, or
45 describing the organization, procedure, or practice requirements of
46 the commission, which shall have the force and effect of law in the
47 compacting states.
48 "State" means any state, district, or territory of the United States

1 of America.

2 "Third party filer" means an entity that submits a product filing
3 to the commission on behalf of an insurer.

4 "Uniform standard" means a standard adopted by the commission
5 for a product line, pursuant to section 7 of this act, and shall include
6 all of the product requirements in aggregate; provided, that each
7 uniform standard shall be construed, whether express or implied, to
8 prohibit the use of any inconsistent, misleading, or ambiguous
9 provisions in a product, and the form of the product made available
10 to the public shall not be unfair, inequitable, or against public
11 policy as determined by the commission.

12

13 3. a. The compacting states hereby create and establish a joint
14 public agency known as the "Interstate Insurance Product
15 Regulation Commission." Pursuant to section 4 of this act, the
16 commission shall develop uniform standards for product lines,
17 receive and provide prompt review of products filed therewith, and
18 give approval to those product filings satisfying applicable uniform
19 standards; however, it is not intended for the commission to be the
20 exclusive entity for receipt and review of insurance product filings.
21 Nothing in this act shall prohibit an insurer from filing its product
22 in any state in which the insurer is licensed to conduct the business
23 of insurance, which filing shall be subject to the laws of the state
24 where filed.

25 b. The commission is a body corporate and politic, and an
26 instrumentality of the compacting states.

27 c. The commission is solely responsible for its liabilities except
28 as otherwise specifically provided in this act.

29 d. Venue is proper and judicial proceedings by or against the
30 commission shall be brought solely and exclusively in a court of
31 competent jurisdiction where the principal office of the commission
32 is located.

33

34 4. The commission shall have the following powers:

35 a. To promulgate rules, pursuant to section 7 of this act, which
36 shall have the force and effect of law and shall be binding in the
37 compacting states to the extent and in the manner provided in this
38 act;

39 b. To exercise its rule-making authority and establish
40 reasonable uniform standards for products covered under this act,
41 and advertisements related thereto, which shall have the force and
42 effect of law and shall be binding in the compacting states, but only
43 for those products filed with the commission, provided, that a
44 compacting state shall have the right to opt out of those uniform
45 standards pursuant to section 7 of this act, to the extent and in the
46 manner provided in this act, and, provided further, that any uniform
47 standard established by the commission for long-term care
48 insurance products may provide the same or greater protections for

- 1 consumers as, but shall not provide less than, those protections set
2 forth in the National Association of Insurance Commissioners'
3 (NAIC) Long-Term Care Insurance Model Act and Long-Term Care
4 Insurance Model Regulation, respectively, adopted as of 2001. The
5 commission shall consider whether any subsequent amendments to
6 the NAIC Long-Term Care Insurance Model Act or Long-Term
7 Care Insurance Model Regulation adopted by the NAIC require
8 amendment of the uniform standards established by the commission
9 for long-term care insurance products;
- 10 c. To receive and review in an expeditious manner, products
11 filed with the commission, and rate filings for disability income and
12 long-term care insurance products, and give approval of those
13 products and rate filings that satisfy the applicable uniform
14 standard, which approval shall have the force and effect of law and
15 be binding on the compacting states to the extent and in the manner
16 provided in this act;
- 17 d. To receive and review in an expeditious manner,
18 advertisements relating to long-term care insurance products for
19 which uniform standards have been adopted by the commission, and
20 give approval to all advertisements that satisfy the applicable
21 uniform standard. For any product covered under the compact,
22 other than long-term care insurance products, the commission shall
23 have the authority to require an insurer to submit all or any part of
24 its advertisement with respect to that product for review or approval
25 prior to use, if the commission determines that the nature of the
26 product is such that an advertisement of the product could have the
27 capacity or tendency to mislead the public. The actions of the
28 commission as provided in this section shall have the force and
29 effect of law, and shall be binding in the compacting states to the
30 extent and in the manner provided in this act;
- 31 e. To exercise its rule-making authority and designate products
32 and advertisements that may be subject to a self-certification
33 process without the need for prior approval by the commission;
- 34 f. To promulgate operating procedures, pursuant to section 7 of
35 this act, which shall be binding in the compacting states to the
36 extent and in the manner provided in this act;
- 37 g. To bring and prosecute legal proceedings or actions in its
38 name as the commission; however, the standing of any state
39 insurance department to sue or be sued under applicable law shall
40 not be affected;
- 41 h. To issue subpoenas requiring the attendance and testimony
42 of witnesses and the production of evidence;
- 43 i. To establish and maintain offices;
- 44 j. To purchase and maintain insurance and bonds;
- 45 k. To borrow, accept, or contract for services of personnel,
46 including, but not limited to, employees of a compacting state;
- 47 l. To hire employees, professionals, or specialists, and elect or
48 appoint officers, and to fix their compensation, define their duties,

- 1 and give them appropriate authority to carry out the purposes of this
2 act, and determine their qualifications; and to establish the
3 commission's personnel policies and programs relating to, among
4 other things, conflicts of interest, rates of compensation, and
5 qualifications of personnel;
- 6 m. To accept any appropriate donations and grants of money,
7 equipment, supplies, materials, and services, and to receive, utilize,
8 and dispose of the same; provided, at all times the commission shall
9 strive to avoid any appearance of impropriety;
- 10 n. To lease, purchase, accept appropriate gifts or donations of,
11 or otherwise own, hold, improve, or use, any property, real,
12 personal, or mixed; provided, at all times the commission shall
13 strive to avoid any appearance of impropriety;
- 14 o. To sell, convey, mortgage, pledge, lease, exchange, abandon,
15 or otherwise dispose of any property, real, personal or mixed;
- 16 p. To remit filing fees to compacting states as may be set forth
17 in the bylaws, rules, or operating procedures;
- 18 q. To enforce compliance by compacting states with rules,
19 uniform standards, operating procedures and bylaws;
- 20 r. To provide for dispute resolution among compacting states;
- 21 s. To advise compacting states on issues relating to insurers
22 domiciled or doing business in non-compacting jurisdictions,
23 consistent with the purposes of this act;
- 24 t. To provide advice and training to those personnel in state
25 insurance departments responsible for product review, and to be a
26 resource for state insurance departments;
- 27 u. To establish a budget and make expenditures;
- 28 v. To borrow money;
- 29 w. To appoint committees, including advisory committees
30 comprising members, state insurance regulators, state legislators or
31 their representatives, insurance industry and consumer
32 representatives, and any other interested persons as may be
33 designated in the bylaws;
- 34 x. To provide and receive information from, and to cooperate
35 with, law enforcement agencies;
- 36 y. To adopt and use a corporate seal; and
- 37 z. To perform any other functions as may be necessary or
38 appropriate to achieve the purposes of this act consistent with the
39 state regulation of the business of insurance.
- 40
- 41 5. a. (1) Each compacting state shall have and be limited to
42 one member of the commission. Each member shall be qualified to
43 serve in that capacity pursuant to the applicable law of the
44 compacting state. Any member may be removed or suspended from
45 office as provided by the law of the state from which he shall be
46 appointed. Any vacancy occurring in the commission shall be filled
47 in accordance with the laws of the compacting state wherein the
48 vacancy exists. Nothing herein shall be construed to affect the

1 manner in which a compacting state determines the election or
2 appointment and qualification of its own commissioner.

3 (2) Each member shall be entitled to one vote and shall have an
4 opportunity to participate in the governance of the commission in
5 accordance with the bylaws. Notwithstanding any provision herein
6 to the contrary, no action of the commission with respect to the
7 promulgation of a uniform standard shall be effective unless two-
8 thirds of the members vote in favor thereof.

9 (3) The commission shall, by a majority of the members,
10 prescribe bylaws to govern its conduct as may be necessary or
11 appropriate to carry out the purposes, and exercise the powers, of
12 this act, including, but not limited to:

13 (a) establishing the fiscal year of the commission;

14 (b) providing reasonable procedures for appointing and electing
15 members, as well as holding meetings, of the management
16 committee;

17 (c) providing reasonable standards and procedures for the
18 establishment and meetings of other committees, and governing any
19 general or specific delegation of any authority or function of the
20 commission;

21 (d) providing reasonable procedures for calling and conducting
22 meetings of the commission that consist of a majority of
23 commission members, ensuring reasonable advance notice of each
24 meeting, and providing for the right of citizens to attend each
25 meeting, with enumerated exceptions designed to protect the
26 public's interest, the privacy of individuals, and insurers'
27 proprietary information, including trade secrets. The commission
28 may meet in executive or closed session only after a majority of the
29 entire membership votes to close a meeting, in whole or in part. As
30 soon as practicable, the commission shall make public a copy of the
31 vote to close the meeting revealing the vote of each member with no
32 proxy votes allowed, and votes taken during the meeting;

33 (e) establishing the titles, duties and authority, and reasonable
34 procedures for the election, of the officers of the commission;

35 (f) providing reasonable standards and procedures for the
36 establishment of the personnel policies and programs of the
37 commission. Notwithstanding any civil service or other similar laws
38 of any compacting state, the bylaws shall exclusively govern the
39 personnel policies and programs of the commission;

40 (g) promulgating a code of ethics to address permissible and
41 prohibited activities of commission members and employees; and

42 (h) providing a mechanism for winding up the operations of the
43 commission and the equitable disposition of any surplus funds that
44 may exist after the termination of the compact established by this
45 act, after the payment and reserving of all of its debts and
46 obligations.

47 (4) The commission shall publish its bylaws in a convenient form
48 and file a copy thereof, and a copy of any amendment thereto, with

- 1 the appropriate agency or officer in each of the compacting states.
- 2 b. (1) A management committee comprising no more than 14
3 members shall be established as follows:
- 4 (a) One member from each of the six compacting states with the
5 largest premium volume for individual and group annuities, life,
6 disability income, and long-term care insurance products,
7 determined from the records of the NAIC for the prior year;
- 8 (b) Four members from those compacting states with at least two
9 percent of the market based on the premium volume as described in
10 subparagraph (a) of this paragraph, other than the six compacting
11 states with the largest premium volume, selected on a rotating basis
12 as provided in the bylaws; and
- 13 (c) Four members from those compacting states with less than
14 two percent of the market, based on the premium volume as
15 described in subparagraph (a) of this paragraph, with one selected
16 from each of the four zone regions of the NAIC as provided in the
17 bylaws.
- 18 (2) The management committee shall have that authority and
19 those duties as may be set forth in the bylaws, including but not
20 limited to:
- 21 (a) managing the affairs of the commission in a manner
22 consistent with the bylaws and purposes of the commission;
- 23 (b) establishing and overseeing an organizational structure
24 within, and appropriate procedures for, the commission to provide
25 for the creation of uniform standards and other rules, receipt and
26 review of product filings, administrative and technical support
27 functions, review of decisions regarding the disapproval of a
28 product filing, and the review of elections made by a compacting
29 state to opt out of a uniform standard; however, a uniform standard
30 shall not be submitted to the compacting states for adoption unless
31 approved by two-thirds of the members of the management
32 committee;
- 33 (c) overseeing the offices of the commission; and
- 34 (d) planning, implementing, and coordinating communications
35 and activities with other state, federal and local government
36 organizations in order to advance the goals of the commission.
- 37 (3) The commission shall elect annually officers from the
38 management committee, with each having the authority and duties
39 as may be specified in the bylaws.
- 40 (4) The management committee may, subject to the approval of
41 the commission, appoint or retain an executive director for a period,
42 upon those terms and conditions, and for that compensation, which
43 the commission deems appropriate. The executive director shall
44 serve as secretary to the commission, but shall not be a member of
45 the commission. The executive director shall hire and supervise
46 additional staff as authorized by the commission.
- 47 c. (1) A legislative committee comprised of state legislators or
48 their designees, provided in a manner of selection and for terms as

1 shall be set forth in the bylaws, shall be established to monitor the
2 operations of, and make recommendations to, the commission,
3 including the management committee; provided that the manner of
4 selection and term of any legislative committee member shall be as
5 set forth in the bylaws. Prior to the adoption by the commission of
6 any uniform standard, revision to the bylaws, annual budget, or
7 other significant matter as may be provided in the bylaws, the
8 management committee shall consult with and report to the
9 legislative committee.

10 (2) The commission shall establish two advisory committees,
11 one of which shall be comprised of consumer representatives
12 independent of the insurance industry, and the other comprised of
13 insurance industry representatives.

14 (3) The commission may establish additional advisory
15 committees as provided in the bylaws for carrying out its functions.

16 d. The commission shall maintain its corporate books and
17 records in accordance with the bylaws.

18 e. (1) The members, officers, executive director, employees,
19 and representatives of the commission shall be immune from suit
20 and liability, either personally or in their official capacity, for any
21 claim for damage to or loss of property or personal injury or other
22 civil liability caused by or arising out of any actual or alleged act,
23 error, or omission that occurred, or that the person against whom
24 the claim is made had a reasonable basis for believing occurred,
25 within the scope of commission employment, duties, or
26 responsibilities; however, nothing in this paragraph shall be
27 construed to protect any person from suit and liability for any
28 damage, loss, injury, or liability caused by the intentional or willful
29 and wanton misconduct of that person.

30 (2) The commission shall defend any member, officer, executive
31 director, employee, or representative of the commission in any civil
32 action seeking to impose liability arising out of any actual or
33 alleged act, error, or omission that occurred within the scope of
34 commission employment, duties or responsibilities, or that the
35 person against whom the claim is made had a reasonable basis for
36 believing occurred within the scope of commission employment,
37 duties, or responsibilities, so long as that actual or alleged act, error,
38 or omission did not result from that person's intentional or willful
39 and wanton misconduct; however, nothing herein shall be construed
40 to prohibit that person from retaining his own counsel.

41 (3) The commission shall indemnify and hold harmless any
42 member, officer, executive director, employee, or representative of
43 the commission for the amount of any settlement or judgment
44 obtained against that person arising out of any actual or alleged act,
45 error, or omission that occurred within the scope of commission
46 employment, duties, or responsibilities, or that the person had a
47 reasonable basis for believing occurred within the scope of
48 commission employment, duties, or responsibilities, so long as that

1 actual or alleged act, error, or omission did not result from the
2 intentional or willful and wanton misconduct of that person.

3

4 6. a. The commission shall meet and take those actions
5 consistent with the provisions of this act and the bylaws.

6 b. Each member of the commission shall have the right and
7 power to cast a vote to which that compacting state is entitled, and
8 to participate in the business and affairs of the commission. A
9 member shall vote in person or by other means as provided in the
10 bylaws. The bylaws may provide for members' participation in
11 meetings by telephone or other means of communication.

12 c. The commission shall meet at least once during each
13 calendar year. Additional meetings shall be held as set forth in the
14 bylaws.

15

16 7. a. The commission shall promulgate reasonable rules,
17 including uniform standards and operating procedures, in order to
18 effectively and efficiently achieve the purposes of this act.
19 Notwithstanding the foregoing, if the commission exercises its
20 rulemaking authority in a manner that is beyond the scope of the
21 purposes of this act, or the powers granted hereunder, that action by
22 the commission shall be invalid and have no force and effect.

23 b. Rules and operating procedures shall be made pursuant to a
24 rulemaking process that conforms to the Model State
25 Administrative Procedure Act of 1981 adopted by the National
26 Conference of Commissioners on Uniform State Laws, as amended,
27 as may be appropriate to the operations of the commission. Before
28 the commission adopts a uniform standard, the commission shall
29 give written notice to the relevant state legislative committee or
30 committees in each compacting state responsible for insurance
31 issues of its intention to adopt the uniform standard. The
32 commission, in adopting a uniform standard, shall consider fully all
33 submitted materials and issue a concise explanation of its decision.

34 c. A uniform standard shall become effective 90 days after its
35 promulgation by the commission, or a later date determined by the
36 commission; however, a compacting state may opt out of a uniform
37 standard as provided in subsection d. of this section. As used in this
38 section, "opt out" means any action by a compacting state to decline
39 to adopt or participate in a promulgated uniform standard. All other
40 rules and operating procedures, and amendments thereto, shall
41 become effective as of the date specified in each rule, operating
42 procedure, or amendment.

43 d. (1) A compacting state may opt out of a uniform standard,
44 either by legislation or regulation, duly promulgated by the
45 insurance department under the compacting state's administrative
46 procedure act. If a compacting state elects to opt out of a uniform
47 standard by regulation, it shall give written notice to the
48 commission no later than 10 business days after the uniform

1 standard is promulgated, or at the time the state becomes a
2 compacting state and finds that the uniform standard does not
3 provide reasonable protections to the citizens of the state, given the
4 conditions in that state. The commissioner shall make specific
5 findings of fact and conclusions of law, based on a preponderance
6 of the evidence, detailing the conditions in the state which warrant a
7 departure from the uniform standard and determining that the
8 uniform standard would not reasonably protect the citizens of that
9 state. The commissioner shall consider and balance the following
10 factors, and find that the conditions in the state and needs of the
11 citizens of the state outweigh:

12 (a) the intent of the legislature to participate in, and the benefits
13 of, an interstate agreement to establish national uniform consumer
14 protections for the products subject to this act; and

15 (b) the presumption that a uniform standard adopted by the
16 commission provides reasonable protections to consumers of the
17 relevant product.

18 (2) Notwithstanding the provisions of paragraph (1) of this
19 subsection, a compacting state may, at the time of its enactment of
20 the compact, prospectively opt out of all uniform standards
21 involving long-term care insurance products by expressly providing
22 therefor in the act, and that opt out shall not be treated as a material
23 variance in the offer or acceptance of any state to participate in the
24 compact. Such an opt out shall be effective at the time of
25 enactment of the compact by the compacting state, and shall apply
26 to all existing uniform standards involving long-term care insurance
27 products and those subsequently promulgated.

28 (3) In accordance with the provisions of paragraph (2) of this
29 subsection, this State prospectively opts out of all uniform standards
30 involving long-term care insurance products promulgated by the
31 commission, as this State has previously enacted the "New Jersey
32 Long-Term Care Insurance Act," P.L.2003, c.207 (C.17B:27E-1 et
33 seq.), which facilitates flexibility and innovation in the development
34 of long-term care insurance coverage.

35 e. If a compacting state elects to opt out of a uniform standard,
36 the uniform standard shall remain applicable in the compacting state
37 electing to opt out until the opt out legislation is enacted into law or
38 the regulation opting out becomes effective.

39 Once the opt out of a uniform standard by a compacting state
40 becomes effective as provided under the laws of that state, the
41 uniform standard shall have no further force and effect in that state
42 unless the legislation or regulation implementing the opt out is
43 repealed or otherwise becomes ineffective under the laws of the
44 state. If a compacting state opts out of a uniform standard after the
45 uniform standard has been made effective in that state, the opt out
46 shall have the same prospective effect as provided pursuant to
47 section 14 of this act for withdrawal from the compact.

48 f. If a compacting state has formally initiated the process of

1 opting out of a uniform standard by regulation, and while the
2 regulatory opt out is pending, the compacting state may petition the
3 commission, at least 15 days before the effective date of the
4 uniform standard, to stay the effectiveness of the uniform standard
5 in that state. The commission may grant a stay if it determines that
6 the regulatory opt out is being pursued in a reasonable manner and
7 there is a likelihood of success. If a stay is granted or extended by
8 the commission, the stay or extension thereof may postpone the
9 effective date by up to 90 days, unless affirmatively extended by the
10 commission; however, a stay may not be permitted to remain in
11 effect for more than one year unless the compacting state can show
12 extraordinary circumstances which warrant a continuance of the
13 stay, including, but not limited to, the existence of a legal challenge
14 which prevents the compacting state from opting out. A stay may
15 be terminated by the commission upon notice that the rulemaking
16 process has been terminated.

17 g. Not later than 30 days after a rule or operating procedure is
18 promulgated, any person may file a petition for judicial review of
19 the rule or operating procedure; however, the filing of that petition
20 shall not stay or otherwise prevent the rule or operating procedure
21 from becoming effective unless the court finds that the petitioner
22 has a substantial likelihood of success. The court shall give
23 deference to the actions of the commission consistent with
24 applicable law and shall not find the rule or operating procedure to
25 be unlawful if the rule or operating procedure represents a
26 reasonable exercise of the commission's authority.

27
28 8. a. The commission shall promulgate rules establishing
29 conditions and procedures for public inspection and copying of its
30 information and official records, except for information and records
31 involving the privacy of individuals and insurers' trade secrets. The
32 commission may promulgate additional rules under which it may
33 make available to federal and state agencies, including law
34 enforcement agencies, records and information otherwise exempt
35 from disclosure, and may enter into agreements with those agencies
36 to receive or exchange information or records subject to
37 nondisclosure and confidentiality provisions.

38 b. Except as to privileged records, data and information, the
39 laws of any compacting state pertaining to confidentiality or
40 nondisclosure shall not relieve any compacting state commissioner
41 of the duty to disclose any relevant records, data or information to
42 the commission; however, disclosure to the commission shall not be
43 deemed to waive or otherwise affect any confidentiality
44 requirement, and further, except as otherwise expressly provided in
45 this act, the commission shall not be subject to the compacting
46 state's laws pertaining to confidentiality and nondisclosure with
47 respect to records, data, and information in its possession.
48 Confidential information of the commission shall remain

- 1 confidential after that information is provided to any commissioner.
- 2 c. The commission shall monitor compacting states for
3 compliance with duly adopted bylaws, rules, including uniform
4 standards, and operating procedures. The commission shall notify
5 any non-complying compacting state in writing of its
6 noncompliance with commission bylaws, rules, or operating
7 procedures. If a non-complying compacting state fails to remedy its
8 noncompliance within the time specified in the notice of
9 noncompliance, the compacting state shall be deemed to be in
10 default as provided in section 14 of this act.
- 11 d. The commissioner of any state in which an insurer is
12 authorized to do business, or is conducting the business of
13 insurance, shall continue to exercise the commissioner's authority to
14 oversee the market regulation of the activities of the insurer in
15 accordance with the provisions of the state's law. The
16 commissioner's enforcement of compliance with the compact is
17 governed by the following provisions:
- 18 (1) With respect to the commissioner's market regulation of a
19 product or advertisement that is approved or certified to the
20 commission, the content of the product or advertisement shall not
21 constitute a violation of the provisions, standards, or requirements
22 of the compact except upon a final order of the commission, issued
23 at the request of a commissioner after prior notice to the insurer and
24 an opportunity for hearing before the commission.
- 25 (2) Before a commissioner may bring an action for violation of
26 any provision, standard, or requirement of the compact relating to
27 the content of an advertisement not approved or certified to the
28 commission, the commission, or an authorized commission officer
29 or employee, shall authorize the action. However, authorization
30 pursuant to this paragraph does not require notice to the insurer,
31 opportunity for hearing, or disclosure of requests for authorization
32 or records of the commission's action on such requests.
- 33
- 34 9. The commission shall attempt, upon the request of a
35 member, to resolve any disputes or other issues that are subject to
36 the compact and which may arise between two or more compacting
37 states, or between compacting states and non-compacting states, and
38 the commission shall promulgate an operating procedure providing
39 for resolution of those disputes.
- 40
- 41 10. a. Insurers and third party filers seeking to have a product
42 approved by the commission shall file the product with, and pay
43 applicable filing fees to, the commission. Nothing in this act shall
44 be construed to restrict or otherwise prevent an insurer from filing
45 its product with the insurance department in any state wherein the
46 insurer is licensed to conduct the business of insurance, and that
47 filing shall be subject to the laws of the states where filed.
- 48 b. The commission shall establish appropriate filing and review

1 processes and procedures pursuant to commission rules and
2 operating procedures. Notwithstanding any provision in this act to
3 the contrary, the commission shall promulgate rules to establish
4 conditions and procedures under which the commission will provide
5 public access to product filing information. In establishing these
6 rules, the commission shall consider the interests of the public in
7 having access to that information, as well as protection of personal
8 medical and financial information and trade secrets, which may be
9 contained in a product filing or supporting information.

10 c. Any product approved by the commission may be sold or
11 otherwise issued in those compacting states for which the insurer is
12 legally authorized to do business.

13
14 11. a. Not later than 30 days after the commission has given
15 notice of a disapproved product or advertisement filed with the
16 commission, the insurer or third party filer whose filing was
17 disapproved may appeal the determination to a review panel
18 appointed by the commission. The commission shall promulgate
19 rules to establish procedures for appointing those review panels and
20 provide for notice and hearing. An allegation that the commission,
21 in disapproving a product or advertisement filed with the
22 commission, acted arbitrarily, capriciously, or in a manner that is an
23 abuse of discretion or otherwise not in accordance with the law, is
24 subject to judicial review in accordance with subsection d. of
25 section 3 of this act.

26 b. The commission shall have the authority to monitor, review,
27 and reconsider products and advertisements subsequent to their
28 filing or approval upon a finding that the product does not meet the
29 relevant uniform standard. Where appropriate, the commission may
30 withdraw or modify its approval after proper notice and hearing,
31 subject to the appeal process pursuant to subsection a. of this
32 section.

33
34 12. a. The commission shall pay or provide for the payment of
35 the reasonable expenses of its establishment and organization. To
36 fund the cost of its initial operations, the commission may accept
37 contributions and other forms of funding from the NAIC,
38 compacting states, and other sources. Contributions and other
39 forms of funding from other sources shall be of a nature that the
40 independence of the commission concerning the performance of its
41 duties shall not be compromised.

42 b. The commission shall collect a filing fee from each insurer
43 and third party filer filing a product with the commission to cover
44 the cost of the operations and activities of the commission and its
45 staff in a total amount sufficient to cover the commission's annual
46 budget.

47 c. The commission's budget for a fiscal year shall not be
48 approved until it has been subject to notice and comment as set

1 forth in section 7 of this act.

2 d. The commission shall be exempt from all taxation in and by
3 the compacting states.

4 e. The commission shall not pledge the credit of any
5 compacting state, except by and with the appropriate legal authority
6 of that compacting state.

7 f. The commission shall keep complete and accurate accounts
8 of all its internal receipts, including grants and donations, and
9 disbursements of all funds under its control. The internal financial
10 accounts of the commission shall be subject to the accounting
11 procedures established under its bylaws. The financial accounts
12 and reports, including the system of internal controls and
13 procedures of the commission, shall be audited annually by an
14 independent certified public accountant. Upon the determination of
15 the commission, but no less frequently than every three years, the
16 review of the independent auditor shall include a management and
17 performance audit of the commission. The commission shall make
18 an annual report to the governor and legislature of the compacting
19 states, which shall include a report of the independent audit. The
20 commission's internal accounts shall not be confidential and may be
21 shared with the commissioner of any compacting state upon request,
22 except that any work papers related to any internal or independent
23 audit and any information regarding the privacy of individuals and
24 insurers' proprietary information, including trade secrets, shall
25 remain confidential.

26 g. No compacting state shall have any claim to or ownership of
27 any property held by or vested in the commission, or to any
28 commission funds held pursuant to the provisions of this act.

29

30 13. a. Any state is eligible to become a compacting state.

31 b. The compact shall become effective and binding upon
32 legislative enactment of the compact into law by two compacting
33 states; however, the commission shall become effective for
34 purposes of adopting uniform standards for, reviewing, and giving
35 approval or disapproval of, products filed with the commission that
36 satisfy applicable uniform standards only after 26 states are
37 compacting states or, alternatively, by states representing greater
38 than 40% of the premium volume for life insurance, annuity,
39 disability income, and long-term care insurance products, based on
40 records of the NAIC for the prior year. Thereafter, the compact
41 shall become effective and binding as to any other compacting state
42 upon enactment of the compact into law by that state.

43 c. Amendments to the compact may be proposed by the
44 commission for enactment by the compacting states. No
45 amendment shall become effective and binding upon the
46 commission and the compacting states unless all compacting states
47 enact the amendment into law.

1 14. a. (1) Once effective, the compact shall continue in force
2 and remain binding upon each compacting state; however, a
3 compacting state may withdraw from the compact by repealing the
4 statute which enacted the compact into law.

5 (2) The effective date of withdrawal is the effective date of the
6 repealing statute. However, the withdrawal shall not apply to any
7 product filings approved or self-certified, or any advertisement of
8 those products, prior to or on the date the repealing statute becomes
9 effective, except by mutual agreement of the commission and the
10 withdrawing state unless the approval is rescinded by the
11 withdrawing state as provided in paragraph (5) of this subsection.

12 (3) The commissioner of the withdrawing state shall immediately
13 notify the management committee in writing upon the introduction
14 of legislation repealing this compact in the withdrawing state.

15 (4) The commission shall notify the other compacting states of
16 the introduction of such legislation within 10 days after its receipt
17 of notice thereof.

18 (5) The withdrawing state is responsible for all obligations,
19 duties, and liabilities incurred through the effective date of
20 withdrawal, including any obligations, the performance of which
21 extend beyond the effective date of withdrawal, except to the extent
22 those obligations may have been released or relinquished by mutual
23 agreement of the commission and the withdrawing state. The
24 commission's approval of products and advertisements prior to the
25 effective date of withdrawal shall continue to be effective and be
26 given full effect in the withdrawing state, unless formally rescinded
27 by the withdrawing state in the same manner as provided by the
28 laws of the withdrawing state for the prospective disapproval of
29 products or advertisements previously approved under state law.

30 (6) Reinstatement following withdrawal of any compacting state
31 shall occur upon the effective date of the withdrawing state
32 reenacting the compact.

33 b. (1) If the commission determines that any compacting state
34 has at any time defaulted in the performance of any of its
35 obligations or responsibilities under the compact, the bylaws, or
36 duly promulgated rules or operating procedures, then, after notice
37 and hearing as set forth in the bylaws, all rights, privileges, and
38 benefits conferred by the compact on the defaulting state shall be
39 suspended from the effective date of default as fixed by the
40 commission. The grounds for default include, but are not limited
41 to, failure of a compacting state to perform its obligations or
42 responsibilities, and any other grounds designated in commission
43 rules. The commission shall immediately notify the defaulting state
44 in writing of the defaulting state's suspension pending a cure of the
45 default. The commission shall stipulate the conditions and the time
46 period within which the defaulting state shall cure its default. If the
47 defaulting state fails to cure the default within the time period
48 specified by the commission, the defaulting state shall be

1 terminated from the compact and all rights, privileges, and benefits
2 conferred by the compact shall be terminated from the effective
3 date of termination.

4 (2) Product approvals by the commission or product self-
5 certifications, or any advertisement in connection with that product,
6 that are in force on the effective date of termination shall remain in
7 force in the defaulting state in the same manner as if the defaulting
8 state had withdrawn voluntarily pursuant to subsection a. of this
9 section.

10 (3) Reinstatement following termination of any compacting state
11 shall require a reenactment of the compact.

12 c. (1) The compact shall dissolve effective upon the date of the
13 withdrawal or default of the compacting state which reduces
14 membership in the compact to one compacting state.

15 (2) Upon the dissolution of the compact, the compact shall
16 become void and shall be of no further effect, and the business and
17 affairs of the commission shall be completed, and any surplus funds
18 shall be distributed in accordance with the bylaws.

19

20 15. a. The provisions of this act shall be severable; and if any
21 phrase, clause, sentence, or provision is deemed unenforceable, the
22 remaining provisions of this act shall be enforceable.

23 b. The provisions of this act shall be liberally construed to
24 effectuate its purposes.

25

26 16. a. (1) Nothing herein shall prevent the enforcement of any
27 other law of a compacting state, except as provided in subsection b.
28 of this section.

29 (2) For any product approved or certified by the commission,
30 the rules, uniform standards, and any other requirements of the
31 commission shall constitute the exclusive provisions applicable to
32 the content, approval, and certification of that product. For any
33 advertisement that is subject to the commission's authority, any
34 rule, uniform standard, or other requirement of the commission
35 which governs the content of the advertisement shall constitute the
36 exclusive provision that a commissioner may apply to the content of
37 the advertisement. Notwithstanding the foregoing, no action taken
38 by the commission shall abrogate or restrict:

39 (a) the access of any person to state courts;

40 (b) remedies available under state law related to breach of
41 contract, tort, or other laws not specifically directed to the content
42 of the product;

43 (c) state law relating to the construction of insurance contracts;
44 or

45 (d) the authority of the attorney general of the state, including,
46 but not limited to, maintaining any actions or proceedings, as
47 authorized by law.

48 (3) All insurance products filed with individual states shall be

- 1 subject to the laws of those states.
- 2 b. (1) All lawful actions of the commission, including all rules
3 and operating procedures promulgated by the commission, are
4 binding upon the compacting states.
- 5 (2) All agreements between the commission and the compacting
6 states are binding in accordance with their terms.
- 7 (3) Upon the request of a party to a conflict over the meaning or
8 interpretation of commission actions, and upon a majority vote of
9 the compacting states, the commission may issue advisory opinions
10 regarding the meaning or interpretation in dispute.
- 11 (4) In the event any provision of the compact exceeds the
12 constitutional limits imposed on the legislature of any compacting
13 state, the obligations, duties, powers, or jurisdiction sought to be
14 conferred by that provision upon the commission shall be
15 ineffective as to that compacting state, and those obligations, duties,
16 powers, or jurisdiction shall remain in the compacting state and
17 shall be exercised by the agency thereof to which those obligations,
18 duties, powers, or jurisdiction are delegated by law in effect at the
19 time the compact becomes effective.

20

21 17. The Commissioner of Banking and Insurance shall report to
22 the Legislature, as provided pursuant to section 2 of P.L.1991,
23 c.164 (C.52:14-19.1), within one year of the effective date of this
24 act or within one year of the operational date of the compact for the
25 long-term care insurance products, whichever is later, the
26 commissioner's 'non-binding' recommendation as to whether the
27 State should participate in the compact with respect to all uniform
28 standards involving long-term care insurance products under the
29 compact.

30

31 18. This act shall take effect upon enactment of the compact into
32 law by two compacting states.

33

34

35

36

37 Establishes the "Interstate Insurance Product Regulation
38 Compact."